IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

RCRev..No. 244 of 2007()

(AGAINST THE JUDGMENT DT. 23.5.07 IN RCA. 6/06 OF THE DISTRICT COURT, KOLLAM AGAINST THE ORDER IN IA. NO.4667/04 AND IA 4668/04 IN RCP 2/02 OF ADDITIONAL RENT CONTROL COURT, KOLLAM.)

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REVN. PETITIONER (APPELLANT/RESPONDENT)

V.RAMAKRISHNA PILLAI,
RESIDING AT M.C.NO.396/XV, S.V.LANE,
KADAPPAKKADA, KOLLAM.

BY ADV. SRI.T.R.RAJAN

RESPONDENTS: (RESPONDENT/PETITIONER)

THARABHAI, W/O. K.SASIKUMAR,
RESIDING AT JUNE HOUSE, KADAPPAKKADA, KOLLAM.

BY

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 30/07/2007, ALONG WITH RCR. 245/2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

R.C.R.NOS.244 & 245 OF 2007 (C)

Dated this the 30th day of July, 2007

O R D E R

KOSHY,J.

The rent control petitions (R.C.P.No.2/2002 and R.C.P.No.6/2002) filed by the landlord for evicting the revision petitioner tenant were allowed ex parte under Section 11 (2) (b) on 8.10.2002. It was proved that rent was in arrears from 1996 onwards. A petition to set aside the ex parte order was filed with a delay condonation petition with delay of 734 days. According to the petitioner he was laid up from 10.9.2002 to 8.11.2004 and from 11.11.2004 to 17.6.2005. Certificate was produced from an Ayurvedic Vaidyan PW2. Ext.A1 Medical certificate was issued by PW2 contending that he was suffering from partial paralysis. In cross examination he stated that petitioner is under treatment for Ostio Arthritis, which is affecting old persons. In I.A.No.4668/2004 it was averred that he was under treatment only upto 8.11.2004 from 10.9.2004. But in paragraph No.3 of I.A.No.2245/2005 it is mentioned that

the petitioner was laid up further from 11.11.2004 to 17.6.2005. The evidence will not show that he was bedridden for two years. In the Ext.A1 certificate dated 10.8.2005, it is certified that he needs rest for three months. But petition to set aside ex parte was filed in 2004. Considering all aspects of the case, petitions to set aside the ex parte order and delay condonation petitions were dismissed. Appellate court considered the matter in detail at paragraphs 9 to 14 and found that the delay was caused only to protract the proceedings. Very detailed reasons are given. We agree with the reasons put forward by the appellate authority and we are of the opinion that no grounds are made out to interfere in the revision petition. It is for the petitioner to avail any statutory remedies, if available, as per law. Hence these revision petitions are dismissed.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

2nd July, 2007